HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

Writ Petition Nos.24195 of 1995 and 17672 of 1998

Writ Petition No.24195 of 1995

Between:

Ankam Lakshmana Rao and two others. … Petitioners

AND

District Collector,
West Godavari District at Eluru
and four others. … Respondents

Counsel for the petitioners : Sri T. Suryakaran Reddy

Counsel for respondent Nos.1 to 3 and 5 : Government Pleader for Social Welfare.

Counsel for respondent No.4 : None.

Writ Petition No.17672 of 1998

Between:

Smt. A. Seshu Kumari … Petitioner

AND

Commissioner of Tribal Welfare,
Hyderabad and two others. … Respondents

Counsel for the petitioner : Sri T. Suryakaran Reddy

Counsel for respondent No.1 : Government Pleader for Social Welfare.

Counsel for respondent Nos.2 and 3 : None.

:: O R D E R ::

March 28, 2007

The above noted petitions are being disposed of by a common order because the issues raised therein are intrinsically inter-related. The first petition has been filed by Sri Ankam Lakshmana Rao (petitioner No.1) and his two children namely, Smt. Ankam Raja Rajeswari (petitioner No.2) and Ankam Ramamohana Rao (petitioner No.3) for quashing G.O.Rt. No.949, Social Welfare (S) Department, dated 5-10-1995 issued by the State Government, whereby District Collector, West Godavari, Eluru (respondent No.1) has been directed to cancel the caste certificates of petitioner Nos.2 and 3 after following the procedure, and Superintendent of Police, West Godavari District, Eluru (respondent No.3) has been directed to finalise the disciplinary action against petitioner No.2. The second writ petition has been filed by Smt. A. Seshu Kumari, another daughter of Ankam Lakshmana Rao for quashing endorsement No.A1/218/97, dated 20-6-1998 issued by Deputy Commissioner of Commercial Taxes, Eluru, West Godavari, whereby she has been directed to produce original Scheduled Tribe status claim certificate with full oral and documentary evidence before Commissioner, Tribal Welfare, Andhra Pradesh.

The Facts:

Writ Petition No.24195 of 1995

1) Ankam Lakshmana Rao claims to be a native of Kammayyapalem Village, hamlet of Ankamvaripalem Village, Polavaram Taluk, West Godavari District. His great grandfather is said to be having Ac.0.05 cents of land in Survey No.99 of Ankamvaripalem Village. He shifted to Eluru and studied in Municipal High School, Eluru and Smt. Edara Subbamma Devi

Municipal High School, Eluru. In the admission register (Volume IV) of the first school for the year 1945-46, his name appears at Sl.No.5677 and his caste has been recorded as 'Konda Kapu'. In the admission register of the second school for the year 1949 also, his caste has been recorded as 'Konda Kapu'. To this effect, copy of SSLC certificate register was issued to him by District Educational Officer, Eluru in 1949.

2) Tahsildar, Eluru issued caste certificate dated 18-11-1963 in favour of petitioner No.1 showing him as 'Konda Kapu'.

3) Petitioner Nos.2 and 3 studied in the schools at Eluru. Their caste was also recorded as 'Konda Kapu'.

4) Petitioner No.2, Smt. Ankam Raja Rajeswari was appointed as Junior Assistant in the office of respondent No.3 in 1976 against the post reserved for Scheduled Tribe. In the same year, petitioner No.3 was appointed as Clerk-cum-Cashier in the services of the State Bank of India against the post reserved for Scheduled Tribe.

5) In 1978, Sri Jujjavarapu Sambayya of Adivarapupet, Eluru made a complaint to the State Government that petitioner No.1 does not belong to 'Konda Kapu' community and petitioner No.2 obtained employment by producing fake caste certificate showing her as member of the Scheduled Tribe.

6) The aforementioned complaint appears to have been forwarded by the Inspector General of Police, Andhra Pradesh to respondent No.3, who after conducting enquiry submitted report dated 24-7-1978 with the finding that the allegation regarding fabrication of caste certificate was false and no further action is required to be taken in the matter.

7) Revenue Divisional Officer, Eluru also conducted enquiry into the matter and submitted report dated 24-4-1979 to respondent

No.1 with the finding that petitioner No.1 belongs to 'Konda Kapu' caste and that the certificate produced by him was not fake.

8) A third enquiry was conducted by Revenue Divisional Officer, Kovvur, West Godavari District, who submitted report dated 18-1-1980 to respondent No.1 with the finding that petitioner No.1 does not belong to 'Konda Kapu' community. Respondent No.1 forwarded the same to the State Government with the observation that except 'Koyas' and 'Konda Reddis', there is no other tribal in the district and 'Konda Kapu' is a misnomer and that there is no such tribal community anywhere in the agency area in the district.

9) After four years, the State Government issued Memo dated 5-10-1984, whereby Director General and Inspector General of Police was directed to suspend petitioner No.2 and launch criminal prosecution and departmental action. This led to registration of Crime No.377 of 1984 at Town Police Station, Eluru II under Section 480 of the Indian Penal Code. After conducting investigation, the officer concerned filed report with the finding that no offence has been committed by petitioner No.2.

10) In the meanwhile, petitioner No.2 was placed under suspension and a departmental enquiry was instituted against her. She challenged the same in Writ Petition No.14437 of 1984. This Court stayed the order of suspension. Subsequently, the writ petition was dismissed with an observation that the only remedy available to the writ petitioner was to approach the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal').

11) The High Court gave two months' time to petitioner No.2 to file appropriate application before the Tribunal. However, just after

15 days of dismissal of the writ petition, respondent No.3 passed order dated 19-7-1988, whereby he again placed petitioner No.2 under suspension. This action became subject matter of challenge in R.P.No.3804 of 1988. By an order dated 22-7-1988, the Tribunal stayed the order of suspension. The R.P. was finally disposed of by the Tribunal on 8-10-1992 with the following observations:

> "It is not clear as to whether any decision has been taken by the Director of Social Welfare about the status of the applicant or the other allegations leveled against her. No material has also been placed about the outcome of either the prosecution or disciplinary enquiry. Under the circumstances, we are not inclined to vary the interim order dated 22-7-1988 passed by the erstwhile APAT and the same is made final. We are not expressing any opinion on the social status of the applicant which has to be decided by the relevant authority as contemplated under the rules. The R.P. is accordingly disposed of."

12) The departmental enquiry instituted against petitioner No.2 was entrusted to Sub-Divisional Police Officer, Nuzvid, who submitted report dated 30-1-1995 with the finding that there is no evidence to show that petitioner No.2 had produced false certificate for the purpose of securing employment.

13) Regional Manager-cum-Disciplinary Authority, Region-II, State Bank of India (respondent No.4) also got conducted departmental enquiry against petitioner No.3 on the allegation of securing employment by producing false caste certificate. The enquiry officer held that the charge has not been proved against petitioner No.3. Accordingly, he was exonerated.

The petitioners have questioned the impugned G.O. by

asserting that the decision of the government to institute fresh enquiry into the matter is totally unreasonable and arbitrary. According to them, successive enquiries conducted by Revenue Divisional Officer, Eluru, Superintendent of Police, West Godavari, Eluru, Sub-Divisional Police Officer, Nuzvid and Regional Manager-cum-Disciplinary Authority, State Bank of India have resulted in exoneration of petitioner Nos.2 and 3 and, therefore, there can be no justification for institution of fresh enquiry. They have relied on the judgment of the Division Bench in **Govt. of A.P. v. R.K. Ragala**[1] and averred that there is no legal basis for persecution of petitioner Nos.2 and 3 on the charge of securing employment by producing fake caste certificates. In the affidavit filed by him, petitioner No.1 has emphasized that the entries recorded in the school registers of 1945-46 and 1949 showing his caste as 'Konda Kapu' are conclusive and there is no reason to doubt the authenticity of the certificate issued by Tahsildar in 1949. He has pleaded that the State Government committed a grave illegality by ordering fresh enquiry ignoring the report submitted by respondent No.3, Revenue Divisional Officer, Eluru and Sub-Divisional Police Officer, Nuzvid, all of whom found that the caste certificates produced by the petitioners are not fake.

In the counter affidavit filed by him, Sri V. Durga Das, District Collector, In-charge, West Godavari District has relied on letter dated 29-10-1980 sent by him to the State Government and averred that as per the report of Revenue Divisional Officer, Kovvur, petitioner No.1 belongs to 'Kapu' community and not 'Konda Kapu' and petitioner Nos.2 and 3 obtained false caste certificates for the purpose of securing employment against the posts earmarked for Scheduled Tribes. In paragraph 7 of his affidavit, Sri V. Durga Das has given the particulars of the castes of spouses of the sons and daughters of

petitioner No.1 and averred that the marriage of all the children in 'Kapu' community is indicative of the fact that he does not belong to 'Konda Kapu' community. According to Sri Durga Das, the enquiry is being held under Section 5 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the 1993 Act') and the petitioners cannot have any legitimate objection to such enquiry.

Writ Petition No.17672 of 1998

While reiterating the facts detailed in Writ Petition No.24195 of 1995, Smt. A. Seshu Kumari, who joined service on 5-5-1989 as Typist in Commercial Taxes Department has pleaded that the direction given by Deputy Commissioner, Commercial Taxes, Eluru (respondent No.3) requiring her to produce original Scheduled Tribe status claim certificate with full oral and documentary evidence before Commissioner, Tribal Welfare, Andhra Pradesh (respondent No.1) is totally unwarranted and is liable to be quashed because various authorities who conducted the enquiry have unequivocally held that the certificate produced by her at the time of appointment is not fake.

In the counter affidavit filed by Dr.Manmohan Singh, Commissioner, Tribal Welfare, reference has been made to the direction given by the Chairman for the Committee on Welfare of Scheduled Tribes, Andhra Pradesh Legislative Assembly for verification of the caste certificates of Scheduled Tribe employees, and it has been averred that on being asked to produce documents in support of her claim as a Scheduled Tribe, the petitioner filed Writ Petition No.4484 of 1997 and succeeded in persuading the Court to pass interim order staying further action. That petition was finally disposed of on 30-12-1997 by quashing communication dated 20-1-1997 with liberty to the authorities to hold fresh enquiry and take appropriate action in accordance with law. According to Dr.

Manmohan Singh, the endorsement impugned in this petition has been issued in furtherance of the liberty given by the High Court in Writ Petition No.4484 of 1997 and the petitioner can have no legitimate grievance against the same. He has also relied on order dated 23-11-2004 passed in Writ Petition No.20640 of 2004 and pleaded that the petitioner cannot take exception to the enquiry being conducted by the respondents.

I have heard learned counsel for the parties and scrutinised the record. It is borne out from the record that Smt.A. Seshu Kumari (petitioner in Writ Petition No.17672 of 1998) had earlier filed Writ Petition No.4484 of 1997 questioning communication dated 20-1-1997 issued by Head of the Office requiring her to produce document in support of her claim as a member of Scheduled Tribe. That petition was disposed of by the Division Bench on 30-12-1997 by recording the following order:

> "The petitioner in the instant writ petition prays for an appropriate writ more particularly one in the nature of a writ of mandamus declaring the proceedings Rc.No.9583/93/TRI-VC/T dated 8-1-1997 issued by the 1st respondent and the consequential proceedings in Ref.No.A1/218/97 dated 20.1.1997 of the 3rd respondent as illegal, arbitrary, unjust and unconstitutional being violative of Articles 14 and 21 of the Constitution of India.
>
> Heard the learned counsel for the parties.
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> Cancellation of a Caste Certificate carries with it serious civil consequences. Before passing such an order, an enquiry should be held. Unfortunately, in the case on hand, the order of the 3rd respondent dated 20-1-1997 which is extracted hereunder, is not a speaking order:
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> > "Smt.A. Seshu Kumari, Typist O/o.the Deputy Commissioner (CT), Eluru is directed to produce original S.T. Status Claim Certificate with full oral and documentary evidence immediately before the Commissioner, Tribal Welfare, Telugu Samkshema

Bhavan, Masab Tank,
Andhra Pradesh, Hyderabad."

There is nothing in the order to show that the said order was proceeded by an enquiry. Hence, the orders under challenge are quashed and the writ petition is accordingly allowed reserving liberty to the authorities to hold a fresh enquiry and take appropriate action in the matter. No costs."

Endorsement dated 20-6-1998 made by Deputy Commissioner, Commercial Taxes, Eluru is the necessary concomitant of the liberty given by the High Court to the competent authority to hold fresh enquiry and take appropriate action in the matter of the caste certificate of Smt.A. Seshu Kumari. Therefore, she cannot take any legitimate objection of the action initiated by the respondents for determining the truthfulness or otherwise of her caste certificate.

In the affidavit filed by her, Smt.Seshu Kumari has not even made a mention of the earlier writ petition filed by her and order dated 30-12-1997 passed by the Division Bench whereby opportunity was given to the departmental authorities to take action in accordance with law. I am sure, if the petitioner had truthfully disclosed all the facts, this Court would have dismissed the petition at the threshold. However, by concealing the facts which have direct bearing on her prayer for quashing endorsement dated 20-6-1998, Smt.A. Seshu Kumari succeeded in misleading the Court to admit the writ petition and stay further proceedings. This contumacious conduct of the petitioner is, by itself, sufficient to non-suit her. In any case, in the face of the order passed by the Division Bench in Writ Petition No.4484 of 1997, there is no justification to entertain the petitioner's challenge to the endorsement impugned in this writ petition.

I shall now advert to Writ Petition No.24195 of 1995.

Ordinarily, I would have quashed G.O.Rt.No.949, dated 5-10-

1995 because, while ordering de novo enquiry into the genuineness of the caste certificates of the petitioners, the State Government did not take note of the enquiry reports submitted by respondent No.3, Revenue Divisional Officer, Eluru and Sub-Divisional Police Officer, Nuzvid as also the enquiry got conducted by Regional Manager, Region II, State Bank of India. The findings recorded in those reports are based on comprehensive evaluation of the evidence. Therefore, the same ought to have been considered by the government before ordering fresh enquiry. However, keeping in view order dated 8-10-1992 passed by the Tribunal in R.P.No.3804 of 1988 and order dated 30-12-1997 passed by the Division Bench of this Court in Writ Petition No.4484 of 1997, I do not consider it proper to quash the enquiry instituted by the government and feel that ends of justice will be met by directing that the competent authority constituted under the 1993 Act to complete the enquiry and pass appropriate order within a period of two months from the date of receipt of copy of this order.

Hence, the writ petitions are disposed of in the following terms:

1) The prayer of the petitioners for quashing G.O.Rt.No.949, dated 5-10-1995 issued by the State Government and endorsement dated 20-6-1998 made by Deputy Commissioner (Commercial Taxes), Eluru are declined.

2) The competent authority constituted under the 1993 Act shall finalise the enquiry within two months and the consequential action, if any, shall be taken within next one month.

3) While holding enquiry under the 1993 Act, the competent authority shall take into consideration the entries recorded in the registers of the schools where Ankam Lakshmana Rao had studied and the fact that four authorities i.e. Superintendent of Police, West Godavari District, Eluru, Revenue Divisional Officer, Eluru, Sub-Divisional Police Officer, Nuzvid and Regional

Manager, Region-II, State Bank of India had enquired into the matter and concluded that the objections to the caste certificate produced by the petitioners are not correct. However, this observation shall not be construed as a mandate of the Court for recording a finding in favour of petitioner Nos.2 and 3 in Writ Petition No.24195 of 1995 and the petitioner in Writ Petition No.17672 of 1998 and the concerned authority shall independently take its own decision in the matter.

4) If the petitioners feel aggrieved by the final order which may be passed on the basis of the enquiry to be conducted pursuant to G.O.Rt.No.949, dated 5-10-1995 or endorsement dated 20-6-1998 issued by Deputy Commissioner, Commercial Taxes, Eluru, then they shall be free to avail appropriate legal remedy.

As a sequel to disposal of the writ petitions, WPMP.Nos.29762 of 1995 and 21072 of 1998 filed by the petitioners for interim relief are disposed of as infructuous and the interim orders are vacated.

G.S.SINGHVI, C.J.

28th March, 2007.

Note: The Court Officer is directed to give an attested copy of this order to the learned Government Pleader for Social Welfare for being communicated to the concerned authority so that there is no delay in finalisation of the enquiry instituted vide G.O.Rt.No.949, dated 5-10-1995.

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[1] 1994(2) ALT 28